TAX NEWS

By Presidential Proclamation, the emergency period for amortization of war facilities was terminated as of September 29, 1945. This means that taxpayers who have been amortizing fixed assets for a 60-month period, under Certificates of Necessity, may recompute the amortization deduction by using a life for the asset of a period from the acquisition up to September 30, 1945. Such taxpayers become eligible for the special provisions for tentative adjustments in tax under Sec. 124(j), added by the Tax Adjustment Act of 1945.

* * * * *

A decision which may have far-reaching consequences is that made by the Tax Court on September 24, 1945, in the case of *The P. Dougherty Company,* 5 TC No. 96. Since the taxpayer's income tax return for the year ended February 28, 1943, showed a net loss of $95,000.00, no excess profits tax return was filed. Adjustments made by the Commissioner resulted in a net income and possibly an excess profits net income. The Commissioner then assessed a penalty of 25% for failure to file an excess profits tax return. Upon appeal by the taxpayer, the Tax Court sustained the Commissioner in the assessment of this penalty.

Corporations showing losses or incomes too small for excess profits tax returns should be warned of this decision. If there is any possibility that upon an examination any adjustments might conceivably be made which would bring the corporation into the excess profits tax bracket, an excess profits tax return should be filed as a measure of protection.

* * * * *

According to Press Service No. V-78, the Commissioner of Internal Revenue has issued the following instructions to all Collectors of Internal Revenue: "If a discharged veteran is unable to pay income taxes within the period of deferment provided by Section 513 of the Soldiers and Sailors Civil Relief Act (six months after discharge), or is unable to pay promptly any other Federal tax liability incurred prior to or during his term of service, Collectors should deal with the matter of collection in a cooperative and sympathetic manner. Partial payments, geared to the financial resources of the service man or woman may be accepted in such cases."

* * * * *

One of the interesting provisions of the Tax Adjustment Act of 1945 is that by which corporations, anticipating a refund because of anticipated loss carry-backs, may apply such anticipated refunds against current tax payments. Thus, a corporation which anticipated a refund of all or part of its 1944 taxes because of a loss carry-back from 1945 might apply such anticipated refund against its final installment of 1944 taxes due in December, 1945. Of course, sufficient data supporting such an anticipated refund must be submitted and other rules must be complied with in making such offsets. It is, however, a new idea in the payment of corporation income taxes.

* * * * *

It is rather difficult to determine at this time just what changes Congress will make in the tax laws and rates. There seem to be arguments pro and con on every suggestion made. However, we are happy to note that there is a strong sentiment for the repeal of the capital stock tax and its related declared-value excess profits tax. These have never appeared to us to be either sensible or sound taxing provisions.

Other suggestions, of course, have been for the repeal of the excess profits tax law; lowering of rates for corporations; and various devices for reducing the taxes of individuals. Most of these changes will, it is believed, be effective as of January 1, 1946. One of the biggest controversies seems to be as to whether the excess profits tax should be entirely repealed or only lowered. Perhaps by the time you read this, we will have the answer.